Immunocept, LLC, et al v. Fulbright & Jaworski Doc. 29

FILED

JAN 26 2006

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IMMUNOCEPT, LLC, PATRICE ANNE LEE, AND JAMES REESE MATSON,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	**CAUSE NO. A 05 CA 334 SS**
	§	
FULBRIGHT & JAWORSKI, LLP,	§	
	§	
Defendant.	§	

PLAINTIFFS' PRELIMINARY PROPOSED TRIAL EXHIBIT LIST

Pursuant to the scheduling order entered by the court and the agreement of the parties, Plaintiffs **IMMUNOCEPT, LLC, PATRICE ANNE LEE, AND JAMES REESE MATSON** (collectively "Plaintiffs") serve their preliminary proposed trial exhibit list, attached as Exhibit A.

Plaintiffs reserve the right to supplement or amend this list as discovery continues in this case.

29

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Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the following counsel of record on this 23rd day of January, 2006.

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EXHIBIT A
PLAINTIFFS' INITITAL TRIAL EXHIBIT LIST

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
1	Brashears Exh. 026	10/25/1994	United States Patent and Trademark Office	Brashears, Sarah	United States Patent and Trademark Office License as Attorney
2	Brashears Exh. 027	1/12/1996			Amendments and Response Under 37 C.F.R. 1.112 (Response to Office Action)
3	Delflache Exh. 001	10/30/2005	Fielding, Jeremy	Beck Redden & Secrest	Second Amended Notice of Intention to take the Oral Deposition Subpoena Duces Tecum of the Corporate Representative of Fulbright & Jaworski, LLP
4	Delflache Exh. 002	10/6/2005	Beck, David	Lynn Tillotson & Pinker	Defendant Fulbright & Jaworski, LLP's Answers to Plaintiffs' First Set of Interrogatories
5	Delflache Exh. 003	08/00/1996	Fulbright & Jaworski	Fulbright & Jaworski	Billing Records for Sarah Brashears re: Pediatric Critical Care Associates
6	Delflache Exh. 004	06/00/1997	Fulbright & Jaworski	Fulbright & Jaworski	Billing Records for Sarah Brashears re: Pediatric Critical Care Associates
7	Delflache Exh. 005	04/00/1997	Fulbright & Jaworski	Fulbright & Jaworski	Billing Records for Sarah Brashears re: Pediatric Critical Care Associates

#145404

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
8	Delflache Exh. 006	00/00/0000	Fulbright & Jaworski	Fulbright & Jaworski	Billed and Unbilled Time & Fee Summary; Matter Inventory Detail Report; Billed Recap of Time
9	Delflache Exh. 007	2/10/1993	Matson, James R.	Adler, Benjamin	Transmitting separate patent applications for review.
10	Delflache Exh. 008	8/20/1993	Fulbright & Jaworski	United States Patent Office	Patent Application for the Hemofiltration of Mediator-Related Diseases
11	Delflache Exh. 009	9/23/1993	Adler, Benjamin	Matson, James	Letter advising of Adler's resignation from Fulbright & Jaworski
12	Delflache Exh. 010	10/13/1993	Bevill, Donna	Bourg, Linda	D-5563-Hemofiltration of Mediator-Related Diseases Pediatric Critical Care Associates, P.A. - Dr. Matson
13	Delflache Exh. 011	4/15/1994	United States Patent Office	Patent Dept., Fulbright & Jaworski	Office Action rejecting Claims 1-8
14	Delflache Exh. 012	4/19/1994	Brashears, Sarah	Matson, James R.; Lee, Patrice A.	Discusses Office Action dated 04/15/94
15	Delflache Exh. 013	5/4/1994	Lee, Patrice	Brashears, Sarah	Encloses responses to the first Office Action.
16	Delflache Exh. 014	7/6/1994			Patent Application with markups
17	Delflache Exh. 015	7/6/1994			Patent Application with markups
18	Delflache Exh. 016	3/7/1995	United States Patent Office	Patent Department, Fulbright & Jaworski	Office Action
19	Delflache Exh. 017	7/6/1995		United States Patent Office	Amendment and Response to Office Action of March 7, 1995.

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
20	Delflache Exh. 018	9/12/1995	United States Patent Office	Patent Department, Fulbright & Jaworski	Office Action
21	Delflache Exh. 019	2/8/1996	Patent Department, Fulbright & Jaworski	United States Patent and Trademark Office	Amendments and Responses to Office action dated September 12, 1995
22	Delflache Exh. 020	4/16/1996	Patent Department, Fulbright & Jaworski	United States Patent and Trademark Office	Amendments and Responses to Office action dated September 12, 1995
23	Delflache Exh. 021	6/17/1996	Lee, Patrice	United States Patent and Trademark Office	Declaration of Dr Patrice Lee
24	Delflache Exh. 022	7/13/1996	Fulbright & Jaworski	United States Patent and Trademark Office	Notice of Allowability
25	Delflache Exh. 023	7/8/1996	United States Patent and Trademark Office	Fulbright & Jaworski	Office Action
26	Delflache Exh. 024	11/5/1996	Matson, James; Lee, Patrice		418 Patent
27	Delflache Exh. 025	7/19/1996	Fulbright & Jaworski		Status Change Form for Sarah Brashears
28	Delflache Exh. 026	8/20/1993			Entire Patent file for the '418 patent.
29	Exh. 070	11/14/2002	Matson, James	Patti	Discusses negotiations with Minntech and plans to write a second SBIR grant.
30	Exh. 071	12/13/2000		Immunocept Shareholders	Report to Shareholders
31	Exh. 072	10/25/2000	Matson, James	Minei, Joseph	Discusses status of filtration project.
32	Exh. 073	04/00/2001			Strategy for Development of the CytoFlux Project

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
33	Exh. 074	5/16/2001	Radunsky, David	Duboux, Laurent	Large Pore Hemofiltration for septic shock
34	Exh. 075	11/17/1998	Radunsky, David		Phone Log - American ImmunoTech for period July 1, 1998 through 11/17/98
35	Exh. 076	10/26/2002	Pryor, Robert	Radunsky, David	Immunocept Status Report
36	Exh. 077	00/00/0000	Matson, James	Zydney, Andrew	Status report re: Immunocept and discusses negotiations with Therakos.
37	Exh. 078	2/28/2002	Matson, James	Findlay, John	Discusses conversation with Dr. Zydney
38	Exh. 079	2/8/2002	Radunsky, David	Matson, James	Clinical Trials
39	Exh. 080	3/3/2002	Radunsky, David	Fellow Owners	Supplementary Status Report
40	Exh. 081	4/9/2002			Memorandum Discussing Certain Aspects of U.S> Patent 5,571,418
41	Exh. 082	6/20/2003	Matson, James	Matson, James	White message
42	Exh. 083	6/24/2003	Matson, James	Walder, Harold	Immunocept sepsis filter
43	Exh. 084	4/18/2002	Radunsky, David	Walder, Harold	Confirming a fax
44	Exh. 085	6/8/2002	Matson, James	Bellomo, Rinaldo	Discusses Johnson & Johnson's position that large pore filtration is not a strategic fit.
45	Exh. 086	5/27/2005			Plaintiffs' First Amended Complaint
46	Exh. 088	5/16/1994	Brashears, Sarah		Billing sheet
47	Exh. 089	7/6/1994	US Patent & Trademark Office		Amendments and Responses under 37 C.F.R. 1.112 (Response to Office action)
48	Exh. 090	3/10/2000	Matson, James		Notes on Quantitative Flow Dividing Device

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
49	Exh. 091	7/19/1996	Brashears, Sarah	File	Memorandum re: File Status on Office Action mailed 07/08/96
50	Exh. 092	3/11/1997	Goldhaber, Richard-Minntech Corp.	Matson, James	Fax re: License for US Patent No. '418
51	Exh. 093	5/5/1997	Matson, James	Mr. Goldhaber	Letter to Mr. Goldhaber re: License for US Patent No. '418
52	Exh. 094	10/27/1998	Matson, James	White, Jerry Prof.	Email to Prof. White
53	Exh. 095	11/7/2002	MSmith@minntech.com	JamesMatson1@aol.com	Email re: Immunocept
54	Exh. 096	5/1/2003	Matson, James	Michael	Letterr re: Minntech
55	Exh. 097	8/17/1993	Matson, James	Bliss, Ronald	Letter re: Summary of BioScience Research Associates' rationale, buisness plan
56	Exh. 098	8/30/1993	Bliss, Ronald	Matson, James	Letter re: an edited letter to Don Stewart
57	Exh. 099	5/5/2004	Motion, Robert	Matson, James	Email re: Checking In
58	Exh. 100	6/15/1999	Matson, James	Felger, Thomas	Patent Application
59	Exh. 101	1/8/1998	Matson, James	Burke, Darrel	US Patent '418 and follow up Patents
60	Exh. 102	6/16/1994	Brashears, Sarah	Matson, James; Lee, Patrice	Letter re: D-5563; P. Lee, et al. Hemofiltration for Mediator-Related Disease
61	Exh. 103	9/25/1995	Brashears, Sarah	Lee, Patrice	Letter re: D-5563-CIP US Serial No. 08/271,136 Hemofiltration of Mediator Relates Diseases

#145404

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
62	Exh. 104	12/12/1995	Brashears, Sarah	Lee, Patrice	Letter re: D-5563-CIP US Serial No. 08/271,136 Hemofiltration of Mediator Relates Diseases
63	Exh. 105	4/29/1996	Bourg, Linda	Brashears, Sarah	Memo re: Office Action
64	Exh. 106	10/14/1998	PAL	JRM	Email re: agenda items and goals
65	Exh. 107	11/28/1993	Matson, James; Lee, Patrice		Outline and Rationale for Baboon E. coli Study
66	Exh. 108				BSRA Business Plan
67	Exh. 109				What We Want
68	Exh. 110	9/1/1987			US Patent Leonard, et al.
69	Exh. 111	1/31/2002	Findlay, John	Kylander, Douglas; Walder, Harold	Email re: Immunocept
70	Exh. 112	1/31/2002	Kylander, Douglas	Bush, Jennifer; ; Walder, Harold; ; Geogen, Kate	Email re: Immunocept Forecast
71	Exh. 113				Sepsis Treatment
72	Exh. 114	02/00/2002			Sepsis Treatment Research Study-Discussion Guide
73	Exh. 115	01/00/2002		Lisbon, Alan Dr.	Sepsis Treatment Research Study-Discussion Guide
74	Exh. 116	2/1/2002	Georgen, Kate	Bush, Jennifer; Walder, Harold; Findlay, John; Kylander, Douglas	Email re: Immunocept
75	Exh. 117	2/1/2002	Bush, Jennifer	Kylander, Douglas; Walder, Harold; Findlay, John; Georgen, Kate	Email Re: Project Harold

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
76	Exh. 118	2/1/2002			Project Harold-Business Case Evaluation
77	Exh. 119	2/6/2002	Bush, Jennifer	Walder, Harold; Findlay, John; Kylander, Douglas; Georgen, Kate	Email re: Project Harold
78	Exh. 120	2/6/2002	Findlay, John	Kylander, Douglas; Georgen, Kate; Walder, Harold; Harriman, George Dr.; Bush, Jennifer	Email re: Xigirs background
79	Exh. 121	2/6/2002	Findlay, John	Woodrow, Hal; Walder, Harold	Email re: Project Harold IP
80	Exh. 122	2/12/2002	Findlay, John	Bush, Jennifer; Georgen, Kate; Walder, Harold; Woodrow, Hal; Kylander, Douglas	Email re: Project Harold Update
81	Exh. 123	2/14/2002	Kylander, Douglas	Bush, Jennifer; Walder, Harold; Findlay, John; Georgen, Kate	Email re: Harold-Base Case
82	Exh. 124	2/19/2002	Bush, Jennifer	Findlay, John; Kylander, Douglas; Georgen, Kate; Walder, Harold; Harriman, Gregory	Email re: Project Harold
83	Exh. 125	2/25/2002			Project Harold Business Case Evaluation
84	Exh. 126	3/1/2002			Project Harold-Diligence Update
85	Exh. 127	3/28/2002			IP Update
86	Exh. 128	3/29/2002	Kylander, Douglas	Bush, Jennifer	Revised Forecasts

#145404

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
87	Exh. 129	4/11/2002	Radunsky, David	Walder, Harold	Letter to Mr. Harold Walker
88	Exh. 130	3/23/2002	Walder, Harold	Findlay, John	Email re: Schedule
89	Exh. 131	4/18/2002	Radunsky, David	Walder, Harold	Email re: Confirming a fax
90	Exh. 132	4/2/2002	Walder, Harold	Davis, Roy	Email re: Technology recommendation
91	Exh. 133	2/4/2002	Walder, Harold	Kylander, Douglas; Findlay, John; Georgen, Kate; Bush, Jennifer	Email re: Harold IP
92	Exh. 134	3/17/1997	Hartmann, Ronald	Matson, James	Fax to Mr. James Matson from Mr. Ronald Hartmann
93	Exh. 135	2/28/2002	Matson, James	Findlay, John	Letter to John Findlay
94	Exh. 136	10/28/1998	Matson, James	White, Jerry Prof.	Letter re: next steps
95	Exh. 137	2/11/2002	Sielski, Barbara	Georgen, Kate; Kylander, Douglas; Findlay, John; Bush, Jennifer; Woodrow, Hal	Email re: Immunocept Mtg. 2/12
96	Exh. 138	2/12/2002	Findlay, John	Woodrow, Hal	Email re: Harold IP DD
97	Exh. 139	2/27/2002	Findlay, John	Radunsky, David; Matson, James	Email re: Another call
98	Exh. 140	1/23/2002	Felger, Thomas	Walder, Harold	Letter re: the issued patents and patent applications filed w/the US Patent and Trademark Office
99	Exh. 141	2/22/2002	Findlay, John	Bush, Jennifer; Walder, Harold; Woodrow, Hal	Email re: Slides
100	Exh. 142	3/26/2002	Felger, Thomas	Radunsky, David	Invoice
101	Exh. 143	3/3/2002	Radunsky, David	Fellow Owners	Supplementary Status Report

#145404

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
102	Exh. 144		Matson, James	Zydney, Andrew	Letter to Andrew Zydney
103	Exh. 145	3/7/2002	Walder, Harold	Matson, James	Email re: us6193681.pdf.pdf
104	Exh. 146	2/27/2001	Davidner et al.	US Patent and Trademark Office	US Patent Application for '681
105	Exh. 147	3/6/2002	Walder, Harold	Findlay, John; Woodrow, Hal	Email re: Davidner '681
106	Exh. 148	6/26/2003	Findlay, John	Walder, Harold; Woodrow, Hal	Email re: Immunocept, LLC
107	Exh. 149	3/4/2002	Zydney, Andrew	Radunsky, David	Email re: Scientific Advisory Board
108	Exh. 150	12/6/2002	Zydney, Andrew L.		Andrew L. Zydney Curriculum Vitae
109	Exh. 151	3/5/2002	Walder, Harold	Matson, James; Findlay, John	Email re: Phone Call to Dr. Bellomo
110	Exh. 152	3/7/2002	Walder, Harold	Findlay, John	Email re: Bellumo Notes
111	Exh. 153	3/21/2002	Walder, Harold	Findlay, John	Email re: Project Harold
112	Exh. 154	2/22/2002	Findlay, John	Walder, Harold; Harriman, Gregory Dr.; Kylander, Douglas; Georgen, Kate; Woodrow, Hal	Email re: Morgera poster
113	Exh. 155	1/21/2002	Davis, Roy	Georgen, Kate; Bush, Jennifer; Findlay, John; Harriman, Gregory	Email re: Immunocept
114	Exh. 156	1/25/2002	Walder, Harold	Findlay, John	Email re: Immunocept Technology Overview
115	Exh. 157	2/4/2002		Junker, Christopher Dr.	Sepsis Study-February 2002
116	Exh. 158	2/14/2002		Rodriguez, Jorge Dr.	Sepsis Treatment Research Study-Discussion Guide

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
117	Exh. 159	2/14/2002		Schulman, Larry Dr.	Sepsis Treatment Research Study-Discussion Guide
118	Exh. 160	2/13/2002		Foy, Hugh Dr.	Sepsis Treatment Research Study-Discussion Guide
119	Exh. 161	2/11/2002		Ware, Lorraine Dr.	Sepsis Treatment Research Study-Discussion Guide
120	Exh. 162	2/4/2002		Chaney, Mark Dr.	Sepsis Study-February 2002
121	Exh. 163	2/4/2002		Young, Christopher Dr.	Sepsis Study-February 2002
122	Exh. 164	2/8/2002	Findlay, John	Walder, Harold	Email re: Project Harold
123	Exh. 165	2/19/2002			Project Harold Business Case Evaluation~Third Draft
124	Exh. 166	3/1/2002	Radunsky, David	zydney@CHE.UDel.Edu	Email re: Immunocept conference call Monday
125	Exh. 167		Bellomo, Rinaldo		Rinaldo Bellomo Curriculum Vitae
126	Exh. 168	5/17/2002	Walder, Harold	Findlay, John; Woodrow, Hal; Kylander, Douglas; Bush, Jennifer	Email re: Steroids for Sepsis
127	Exh. 169	5/17/2002	Burton, Thomas M.		Drug Prices-Why They Keep Soaring (Wall Street Journal)
128	Exh. 170	6/24/2003	Matson, James	Walder, Harold	Letter re: Immunocept, LLC sepsis filter
129	Exh. 171	2/6/2002	Bush, Jennifer	Walder, Harold; Findlay, John; Georgen, Kate; Kylander, Douglas	Email re: PROJEC-1.PPT
130	Findlay Exh. 01	1/21/2002	Davis, Roy	Georgen, Kate; Bush, Jennifer; Findlay, John; Harriman, Gregory Dr.	Email re: Immunocept

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
131	Findlay Exh. 02	1/25/2002	Walder, Harold	Findlay, John	Email re: Immunocept Technology Overview
132	Findlay Exh. 03	1/31/2002	Findlay, John	Walder, Harold; Kylander, Douglas	Email re: Immunocept
133	Findlay Exh. 04	1/28/2002	Findlay, John		Immunocept-Large Pore Hemofiltration Immunomodulation Therapy for Sepsis (Draft)
134	Findlay Exh. 05	2/1/2002	Bush, Jennifer	Walder, Harold; Findlay, John; Kylander, Douglas; Georgen, Kate	Email re: Project Harold
135	Findlay Exh. 06	2/4/2002	Kylander, Douglas	Findlay, John	Email re: Harold IP
136	Findlay Exh. 07	2/5/2002	Walder, Harold	Bush, Jennifer; Findlay, John; Kylander, Douglas; Georgen, Kate	Email re: Project Harold
137	Findlay Exh. 08	2/6/2002	Bush, Jennifer	Walder, Harold; Findlay, John; Georgen, Kate; Kylander, Douglas	Email re: Project Harold Presentation
138	Findlay Exh. 09	2/6/2002	Findlay, John	Kylander, Douglas; Georgen, Kate; Walder, Harold; Harriman, Gregory Dr.; Bush, Jennifer	Email re: Xigris background
139	Findlay Exh. 10	2/6/2002	Findlay, John		Immunocept IP Discussion

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
140	Findlay Exh. 11	2/6/2002	Findlay, John	Woodrow, Hal; Walder, Harold	Email re: Project Harold IP
141	Findlay Exh. 12	2/8/2002			David Radunksy discussion
142	Findlay Exh. 13	2/12/2002	Findlay, John	Walder, Harold; Kylander, Douglas; Georgen, Kate; Bush, Jennifer; Woodrow, Hal	Project Harold Update
143	Findlay Exh. 14	2/5/2002	Findlay, John		Immunocept IP spreadsheet re: patents created and filed
144	Findlay Exh. 15	2/12/2002	Findlay, John		Project Harold Status Update: Technology, IP, and Competition Issues
145	Findlay Exh. 16	2/22/2005	Findlay, John	Bush, Jennifer; Walder, Harold; Woodrow, Hal	Email: Slides
146	Findlay Exh. 17	2/25/2002			Project Harold-Business Case Evaluation
147	Findlay Exh. 18	3/1/2002			Project Harold-Diligence Update
148	Findlay Exh. 19	3/8/2002	Matson, James	Walder, Harold	Davidner '681

#145404

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149	Findlay Exh. 20	3/11/2002	Walder, Harold	Findlay, John; Woodrow, Hal	Patent '681
150	Findlay Exh. 21	3/6/2002		Findlay, John; Walder, Harold	Rinaldo Bellomo Discussion
151	Findlay Exh. 22	3/21/2002	Walder, Harold	Findlay, John	Email re: Project Harold
152	Findlay Exh. 23	3/28/2002			IP Update
153	Findlay Exh. 24	4/11/2002	Radunsky, David	Walder, Harold; Findlay, John	Letter to Harold Walder
154	Findlay Exh. 25	4/23/2002	Walder, Harold	Findlay, John	Email re: Schedule
155	Findlay Exh. 26	4/2/2002	Walder, Harold	Davis, Roy	Email re: Technology recommendation
156	Findlay Exh. 27	1/23/2002	Felger, Thomas	Walder, Harold	Letter re: copies of the issued patents and patent applications filed with the USPTO
157	Findlay Exh. 28	2/8/2002	Radunsky, David	Matson, James	Email re: Clinical trials

#145404

Trial Exhibit No.	Deposition Exhibit	Docdate	Author	Recip	Doctitle
158	Findlay Exh. 29	6/26/2003	Matson, James	Findlay, John	Letter to Mr. John Findlay
159	Findlay Exh. 30				Consensus of Opinion Leaders